

DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF FINAL RULEMAKING

CIVIL INFRACTIONS – AMENDMENTS TO THE SCHEDULE OF FINES
FOR
HAZARDOUS WASTE INFRACTIONS

The Acting Director of the District Department of the Environment, pursuant to the authority set forth in section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2001)), paragraph 2(b) of Mayor's Orders 2004-46, 51 DCR 4128 (2004), 2006-23 effective February 16, 2006 and 2006-61 effective June 14, 2006 hereby gives notice of final rulemaking action to adopt amendments to the Hazard Waste Civil Infractions Schedule of Fines in Title 16 of the District of Columbia Municipal Regulations, Chapter 36. The proposed rules will replace the existing schedule of fines in 16 DCMR § 3652, published at 52 DCR 4903 (2005), for violations of District of Columbia laws and regulations pertaining to hazardous waste.

The proposed rules were published as Department of Health (DOH) proposed rulemaking on March 24, 2006 in 53 DCR 2215. On April 5, 2006, the proposed rulemaking was submitted to the Council of the District of Columbia for a sixty (60)-day period of review. The period of review ended on June 5, 2006 and the Council did not disapprove the proposed rulemaking.

The proposed rules were originally developed by the Department of Health, Environmental Health Administration. They were adopted as proposed rulemaking by the Director of DOH on January 26, 2006. On June 14, 2006, subsequent to the adoption of the proposed rules by the Director of DOH, and subsequent to the end of the Council review period, Mayor's Order 2006-61 was signed transferring personnel, environmental functions and rulemaking authority to the District Department of the Environment (DDOE). The Acting Director of DDOE adopts these rules as originally proposed by the Director of DOH. No comments were received concerning these rules during a sixty (60)-day public comment period and no changes have been made since their publication as a Notice of Proposed Rulemaking. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Section 3652 of Title 16 DCMR is amended to read as follows:

3652 HAZARDOUS WASTE MANAGEMENT INFRACTIONS

3652.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 4202.2 (unlawful disposal of hazardous waste or used oil);
- (b) 20 DCMR §§ 4202.3(a) or 4279.6(a) (use of a surface impoundment for treatment, storage, or disposal of hazardous waste or used oil);
- (c) 20 DCMR §§ 4202.2(b) or 4279.6(a) (use of waste piles to treat or store hazardous waste or used oil);
- (d) 20 DCMR § 4202.3(c) (use of land treatment to manage or dispose of hazardous waste);
- (e) 20 DCMR § 4202.3(d) (use of landfills for hazardous waste disposal);
- (f) 20 DCMR § 4202.3(e) (land disposal of hazardous waste or any mixture of hazardous waste and any other constituent, whether hazardous or not);
- (g) 20 DCMR § 4202.3(f) or 4279.6(b) (use of used oil for dust suppression);
- (h) 20 DCMR § 4202.3(g) (use of waste or other material, contaminated or mixed with dioxin or any other hazardous waste, for dust suppression or road treatment);
- (i) 20 DCMR § 4202.3(h) (burning, processing, or incineration of hazardous waste, hazardous waste fuels, or mixtures of hazardous wastes and other materials in any type of incinerator, boiler, or industrial furnace);
- (j) 20 DCMR §§ 4202.3(i) or 4279.6(c) (burning used oil, whether on-specification or off-specification);
- (k) 20 DCMR § 4202.3(j) (burning of wastes that meet the comparable fuel or synthesis gas (syngas) fuel specifications);
- (l) 20 DCMR § 4202.3(k) (underground injection of hazardous waste);
- (m) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.11 by reference), (failure of person who generates a solid waste to determine if the waste is a hazardous waste);

- (n) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.12 by reference), (failure of generator to obtain EPA identification number before treating, storing, disposing, transporting, or offering for transportation hazardous waste);
- (o) 20 DCMR § 4263.1, (which incorporates 40 CFR § 263.11 by reference), (failure of transporter to obtain EPA identification number before transporting hazardous waste);
- (p) 20 DCMR § 4263.2 (transporter storing manifested shipments of hazardous waste at a transfer facility without a RCRA permit);
- (q) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.21 by reference), (failure of transporter to deliver entire quantity of hazardous waste to designated facility, alternate designated facility, next designated transporter, or a place outside the United States; or to contact generator for further directions);
- (r) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.30(a) by reference), (failure of transporter to take immediate action to protect human health or the environment in the event of discharge during transport);
- (s) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.30(c) and (d) by reference), (failure of transporter to comply with discharge notification and reporting requirements);
- (t) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.31 by reference), (failure of transporter to cleanup any hazardous waste discharge, or to take required or approved response action);
- (u) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(1) by reference), (failure of owner or operator of remediation waste management site to obtain EPA identification number);
- (v) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(3) by reference), (failure of owner or operator of remediation waste management site to control access to the site);
- (w) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(4) by reference), (failure of owner or operator of remediation waste management site to inspect site);
- (x) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(6) by reference), (failure of owner or operator of remediation waste management site to take precautions with respect to ignitable, reactive, and incompatible wastes);

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- (y) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(7) by reference), (failure of owner or operator of remediation waste management site to meet design, construction, operation, or maintenance requirements for units located within a one hundred-year (100-year) floodplain);
- (z) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(10) by reference), (failure of owner or operator of remediation waste management site to develop and maintain procedures to prevent accidents or develop and maintain a contingency and emergency plan);
- (aa) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(11) by reference), (failure of owner or operator of remediation waste management site to designate employee to coordinate emergency response measures);
- (bb) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.11 or 265.11 by reference), (failure of owner or operator to obtain EPA identification number);
- (cc) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.14(a) or (b) or 265.14(a) or (b) by reference), (failure of owner or operator to control access to active portion of facility);
- (dd) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.15(a) or 265.15(a) by reference), (failure of owner or operator to inspect facility);
- (ee) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.17 or 265.17 by reference), (failure of owner or operator to take precautions to prevent accidental ignition or reaction of ignitable or reactive waste);
- (ff) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.56 or 265.56 by reference), (failure of owner or operator to follow required emergency procedures);
- (gg) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.73 or 265.73 by reference), (failure of owner or operator to comply with operating record requirements);
- (hh) 20 DCMR §§ 4264.1 and 4265.1 (which incorporate 40 CFR §§ 264.74 or 265.74 by reference), (failure of owner or operator to furnish records upon request and make records available for inspection);
- (ii) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.111 or 265.111 by reference), (failure of owner or operator to comply with closure performance standard);

- (jj) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.114 or 265.114 by reference), (failure of owner or operator to properly dispose of or decontaminate equipment, structures, or soils);
- (kk) 20 DCMR § 4270.1 (which incorporates 40 CFR § 270.1(c) by reference), (failure to have required RCRA permit);
- (ll) 20 DCMR § 4270.1 (which incorporates 40 CFR § 270.10(f) by reference), (physical construction of hazardous waste management facility without finally effective RCRA permit);
- (mm) 20 DCMR §§ 4273.1 or 4273.2 (failure of universal waste handler to submit written notification of universal waste management before generating universal waste or receiving universal waste from other universal waste handlers);
- (nn) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.11(a) or 273.31(a) by reference), (universal waste handler prohibited from disposing of universal waste);
- (oo) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.11(b) or 273.31(b) by reference), (universal waste handler prohibited from diluting or treating universal waste);
- (pp) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.13(a) or 273.33(a) by reference), (failure of universal waste handler to manage universal waste batteries in a way that prevents releases to the environment);
- (qq) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.13(b) or 273.33(b) by reference), (failure of universal waste handler to manage universal waste pesticides in a way that prevents releases to the environment);
- (rr) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.13(c) or 273.33(c) by reference), (failure of universal waste handler to manage universal waste thermostats in a way that prevents releases to the environment);
- (ss) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.13(d) or 273.33(d) by reference), (failure of universal waste handler to manage universal waste lamps in a way that prevents releases to the environment);
- (tt) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.18(a) or 273.38(a) by reference), (failure of universal waste handler to send or take universal waste to a place other than another universal waste handler, a destination facility, or foreign destination);

- (uu) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.51(a) by reference), (universal waste transporter prohibited from disposing of universal waste);
- (vv) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.51(b) by reference), (universal waste transporter prohibited from diluting or treating universal waste);
- (ww) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.54(a) by reference), (failure of universal waste transporter to immediately contain release of universal waste or other residues from universal waste);
- (xx) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.55(a) by reference), (universal waste transporter transporting universal waste to a place other than a universal waste handler, destination facility, or foreign destination);
- (yy) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.60(a) by reference), (failure of owner or operator of destination facility to comply with notification requirements and permitting requirements of 40 CFR Part 270);
- (zz) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.61(a) by reference), (owner or operator of destination facility sending or taking universal waste to a place other than a universal waste handler, another destination facility, or foreign destination);
- (aaa) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.61(b) by reference), (failure of owner or operator of destination facility to comply with requirements for rejected shipments);
- (bbb) 20 DCMR § 4279.1 (which incorporates 40 CFR §§ 279.22(d), 279.43(c), 279.45(h), or 279.54(g) by reference), (failure to respond to release or discharge of used oil);
- (ccc) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.42 by reference), (failure of transporter to obtain EPA identification number before engaging in used oil activity);
- (ddd) Section 6(c)(15) of the Solid Waste Facility Permit Act of 1995, effective February 27, 1996, as amended (D.C. Law 11-94; **D.C. Official Code § 8-1055(c)(15)**) (failure of owner or operator of solid waste facility to develop and submit to the Department an inspection, monitoring, and control plan to detect and prevent handling of hazardous, infectious, or radioactive wastes);
- (eee) Section 6(c)(16) of the Solid Waste Facility Permit Act of 1995 (**D.C. Official Code § 8-1055(c)(16)**) (failure of owner or operator of solid waste facility to secure shipment containing hazardous, infectious, or radioactive waste);

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- (fff) Section 6(c)(17) of the Solid Waste Facility Permit Act of 1995 (**D.C. Official Code § 8-1055(c)(17)**) (failure of owner or operator of solid waste facility to properly dispose of hazardous, infectious, or radioactive waste); or
- (ggg) 20 DCMR §§ 4305.2 and 4305.3 (failure or refusal to conduct monitoring or testing or to take response or corrective measures as directed in a Notice of Violation, Threat, or Release);

3652.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.12(c) by reference), (generator offering hazardous waste to transporter or treatment, storage, or disposal facility that has not received an EPA identification number);
- (b) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.20(b) by reference), (failure of generator to designate a facility that is permitted to handle the waste described on the manifest);
- (c) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.20(d) by reference), (failure of generator to designate alternate facility or instruct transporter to return waste, if transporter is unable to deliver the hazardous waste to designated facility);
- (d) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.23 by reference), (failure of generator to comply with requirements for use of manifest);
- (e) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.30 by reference), (failure of generator to package hazardous waste in accordance with DOT regulations);
- (f) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.31 by reference) (failure of generator to label hazardous waste in accordance with DOT regulations);
- (g) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.32 by reference), (failure of generator to mark hazardous waste in accordance with DOT regulations);
- (h) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.33 by reference), (failure of generator to placard hazardous waste or to offer the initial transporter the appropriate placards in accordance with DOT regulations);
- (i) 20 DCMR §§ 4262.1 and 4262.4 (which incorporate 40 CFR § 262.34 by reference, subject to modification), (accumulation of hazardous waste by generator for more than ninety (90) days, or for more than the time periods specified in 40 CFR § 262.34(d), (e), or (f));

- (j) 20 DCMR §§ 4262.1 and 4262.4 (which incorporate 40 CFR § 262.34(a)(2) by reference, subject to modification), (failure by generator to clearly mark accumulation start date on each container);
- (k) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.34(a)(3) by reference), (accumulation of hazardous waste without labeling or marking container or tank with the words "hazardous waste");
- (l) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.34(a)(4) by reference), (accumulation of hazardous waste without meeting requirements of 40 CFR Part 265, subparts C and D; § 265.16; or § 268.7(a)(5));
- (m) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.41 by reference), (failure to submit biennial report by March 1st of each even-numbered year);
- (n) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.20(a) by reference), (acceptance of hazardous waste by transporter without a properly signed manifest; or, for exports, an EPA Acknowledgement of Consent or tracking document, as applicable);
- (o) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.20(b) by reference), (failure of transporter to sign and date manifest and return signed copy of the manifest to generator before leaving the generator's property);
- (p) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.20(c) by reference), (failure of transporter to ensure that manifest, or for exports, EPA Acknowledgement of Consent or tracking document, as applicable, accompanies the hazardous waste);
- (q) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.20(f) by reference), (failure of initial rail transporter to meet manifest requirements);
- (r) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.20(g) by reference), (failure of transporter who transports hazardous waste outside of United States to meet manifest requirements);
- (s) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.22 by reference), (failure of transporter to maintain copies of manifest and shipping papers, as required);
- (t) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(5) by reference), (failure of owner or operator of remediation waste management site to provide personnel with required training);

- (u) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(12) by reference), (failure of owner or operator of remediation waste management site to develop, maintain, and implement a plan to meet the requirements in 40 CFR § 264.1(j)(2) through (j)(6) and (j)(9) through (j)(10));
- (v) 20 DCMR § 4264.1 (which incorporates 40 CFR § 264.1(j)(13) by reference), (failure of owner or operator of remediation waste management site to maintain records documenting compliance with 40 CFR § 264.1(j)(1) through (j)(12));
- (w) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.14(c) or 265.14(c) by reference), (failure of owner or operator to post required warning sign(s);
- (x) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.15(d) or 265.15(d) by reference), (failure of owner or operator to record inspections in an inspection log or summary, as required, or to retain records for three (3) years from the date of the inspection);
- (y) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.16 or 265.16 by reference), (failure of owner or operator to ensure that facility personnel successfully complete required training or instruction program);
- (z) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.32 or 265.32 by reference), (failure of owner or operator to equip facility as required);
- (aa) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.33 or 265.33 by reference), (failure of owner or operator to test and maintain required equipment);
- (bb) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.34 or 265.34 by reference), (failure of owner or operator to provide required access to communications or alarm systems);
- (cc) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.35 or 265.35 by reference), (failure of owner or operator to maintain required aisle space);
- (dd) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.51 or 265.51 by reference), (failure of owner or operator to have a facility contingency plan);
- (ee) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.56 or 265.56 by reference), (failure of owner or operator to follow required emergency procedures);

- (ff) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.71 or 265.71 by reference), (failure of owner or operator to comply with manifest system requirements);
- (gg) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.75 or 265.75 by reference), (failure of owner or operator to submit a completed biennial report to the Director by March 1 of each even-numbered year);
- (hh) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.76 or 265.76 by reference), (failure of owner or operator to submit unmanifested waste report to Director within fifteen (15) days of receiving the waste);
- (ii) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.77 or 265.77 by reference), (failure of owner or operator to submit to the Director required additional reports);
- (jj) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.117 or 265.117 by reference), (failure of owner or operator to comply with requirements for post-closure care and use of property);
- (kk) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.171 or 265.171 by reference), (failure of owner or operator to transfer hazardous waste from a container that is not in good condition);
- (ll) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.196 or 265.196 by reference), (failure of owner or operator of tank system to comply with requirements for response to leaks or spills or disposition of tank systems or secondary containment systems that are unfit for use);
- (mm) 20 DCMR § 4266.1 (which incorporates 40 CFR § 266.70(b)(1) by reference), (failure of person who generates, transports, or stores recyclable materials utilized for precious metal recovery to comply with notification requirements under § 3010 of RCRA);
- (nn) 20 DCMR § 4266.1 (which incorporates 40 CFR § 266.70(c) by reference), (failure of persons who store recycled materials utilized for precious metal recovery to comply with recordkeeping requirements);
- (oo) 20 DCMR § 4266.1 (which incorporates 40 CFR § 266.80(b)(1)(i) and (2)(i) by reference), (failure of owner or operator of facility that stores spent lead-acid batteries before reclaiming them, but that does not reclaim them through regeneration, to comply with notification requirements under § 3010 of RCRA);

- (pp) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.14 and 273.34 by reference), (failure of universal waste handler to label or mark a universal waste to identify the type of universal waste);
- (qq) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.15 or 273.35 by reference), (accumulation by universal waste handler of a universal waste for longer than one (1) year without meeting requirements for extension of time);
- (rr) 20 DCMR § 4273.1 (which incorporates 40 CFR §§ 273.17(a) or 273.37(a) reference), (failure of universal waste handler to immediately contain all releases);
- (ss) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.39(a) by reference), (failure of large quantity universal waste handler to keep a record of universal waste shipments received at a facility);
- (tt) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.39(b) by reference), (failure of large quantity universal waste handler to keep a record of universal waste shipments sent from the handler to other facilities);
- (uu) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.39(c) by reference), (failure of large quantity universal waste handler to comply with record retention requirements);
- (vv) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.61(c) by reference), (failure of owner or operator of destination facility to immediately notify the Department of illegal shipments);
- (ww) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.62(a) by reference), (failure of owner or operator of destination facility to keep a record of universal waste shipments received at the facility);
- (xx) 20 DCMR § 4273.1 (which incorporates 40 CFR § 273.62(b) by reference), (failure of owner or operator of destination facility to comply with record retention requirements);
- (yy) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.22(a) by reference), (storage of used oil in units other than tanks, containers, or units subject to regulation under 40 CFR Parts 264 or 265);
- (zz) 20 DCMR § 4279.19 (which incorporates 40 CFR § 279.22(b) by reference), subject to modification in 20 DCMR § 4279, (failure to comply with requirements for containers and aboveground tanks used to store used oil);

- (aaa) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.22(c) by reference), (failure to clearly label or mark container, tank, or fill pipe with the words "used oil");
- (bbb) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.24 by reference), (failure of used oil generator to ensure that used oil is transported by transporter that has obtained an EPA identification number);
- (ccc) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.43(a) by reference), (failure of used oil transporter to deliver all used oil received to specified facilities);
- (ddd) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.43(b) by reference), (failure of used oil transporter to comply with applicable DOT requirements);
- (eee) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.45(b) by reference), (owner or operator of used oil transfer facility storing used oil in units other than containers, tanks, or other units subject to regulation under 40 CFR Parts 264 or 265);
- (fff) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.45(c) by reference), (failure of owner or operator of used oil transfer facility to comply with requirements for containers and aboveground tanks used to store used oil);
- (ggg) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.45(d), (e), or (f) by reference), (failure of owner or operator of used oil transfer facility to meet requirements for secondary containment for containers or tanks);
- (hhh) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.45(g) by reference), (failure of owner or operator of used oil transfer facility to clearly label or mark containers, tanks, or fill pipes with the words "used oil");
- (iii) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.46 by reference), (failure of used oil transporter to comply with tracking or record retention requirements);
- (jjj) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.51(a) by reference), (failure of used oil processor or re-refiner to obtain EPA identification number before engaging in used oil activity);
- (kkk) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.52 by reference), (failure of used oil processor or re-refiner to comply with general facility standards);

- (lll) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.54 by reference), (failure of used oil processor or re-refiner to comply with used oil management standards);
- (mmm) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.56 by reference), (failure of used oil processor or re-refiner to comply with tracking or record retention requirements);
- (nnn) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.57 by reference), (failure of used oil processor or re-refiner to comply with operating record and reporting requirements);
- (ooo) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.58 by reference), (failure of used oil processor or re-refiner to use a used oil transporter who has obtained an EPA identification number to ship used oil off-site);
- (ppp) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.71 by reference), (used oil fuel marketer initiating shipment of off-specification used oil in violation of the prohibitions in 40 CFR § 279.71);
- (qqq) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.72(b) by reference), (failure of used oil generator, transporter, or processor/re-refiner to comply with record retention requirements);
- (rrr) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.73(a) by reference), (failure of used oil fuel marketer to obtain EPA identification number);
- (sss) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.74 by reference), (failure of used oil fuel marketer to comply with tracking requirements);
- (ttt) 20 DCMR § 4279.1 (which incorporates 40 CFR § 279.75 by reference), (failure of used oil generator, transporter, or processor/re-refiner to obtain burner certification); or
- (uuu) Section 6(c)(16) of the Solid Waste Facility Permit Act of 1995 (**D.C. Official Code § 8-1055(c)(16)**) (failure of owner or operator of solid waste facility to immediately notify the Department and detain shipment to allow for inspection by the Department, if incoming shipments are found to contain hazardous, infectious, or radioactive wastes).

3652.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 4206.1 (failure to retain records on-site);
- (b) 20 DCMR § 4261.7(a) (failure of conditionally exempt small quantity generator to comply with the notice requirements of § 3010 of RCRA);

- (c) 20 DCMR § 4261.1 (which incorporates 40 CFR § 261.4(e) by reference), (failure of generator or sample collector to comply with requirements for the proper labeling and packaging of treatability study samples);
- (d) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.40(b) by reference), (failure of generator to keep a copy of each biennial report and exception report for the required period of time);
- (e) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.40(c) by reference), (failure of generator to keep records of test results or waste analyses for the required period of time);
- (f) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.42(a)(1) by reference), (failure of large quantity generator to contact transporter or owner or operator of treatment, storage, or disposal facility if generator does not receive properly signed copy of manifest within thirty-five (35) days);
- (g) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.42(a)(2) by reference), (failure of large quantity generator to submit required exception report);
- (h) 20 DCMR § 4262.1 (which incorporates 40 CFR § 262.42(b) by reference), (failure of generator of greater than one hundred (100) kilograms but less than one thousand (1000) kilograms of hazardous waste in a calendar month to comply with requirements for exception reporting);
- (i) 20 DCMR §§ 4262.1 and 4262.5 (which incorporate 40 CFR § 262.43 by reference), (failure of generator to submit reports required by the Director regarding quantities and disposition of waste);
- (j) 20 DCMR § 4263.1 (which incorporates 40 CFR § 263.20(d) by reference), (failure of transporter to obtain date of delivery and required signature on manifest, and to keep and deliver appropriate copies);
- (k) 20 DCMR § 4263.3 (transporter parking a vacuum or pump truck or tanker containing hazardous waste at a transfer facility or at any other location in the District of Columbia for more than twenty-four (24) hours);
- (l) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.172 or 265.172 by reference), (failure of owner or operator to use a container that will not react with, or otherwise be incompatible with, the waste to be stored);
- (m) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.173 or 265.173 by reference), (failure of owner or operator to properly manage containers);

- (n) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.174 or 265.174 by reference), (failure of owner or operator to inspect areas where containers are stored);
- (o) 20 DCMR §§ 4264.1 and 4265.7 (which incorporate 40 CFR § 264.175 by reference), (failure of owner or operator to design or operate containment system in accordance with the requirements of 40 CFR § 264.175);
- (p) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.176 and 265.176 by reference), (failure of owner or operator to place containers holding ignitable or reactive waste required distance from property line);
- (q) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.177 or 265.177 by reference), (failure of owner or operator to comply with special requirements for incompatible wastes and materials);
- (r) 20 DCMR §§ 4264.1 and 4265.7 (which incorporate 40 CFR § 264.178, by reference), (failure of owner or operator storing containers of hazardous waste to comply with closure standards in 40 CFR § 264.178);
- (s) 20 DCMR §§ 4264.1 and 4264.8(c) or §§ 4265.1 and 4265.8(c), respectively (which incorporate 40 CFR §§ 264.193 or 265.193 by reference), (failure of owner or operator of tank system to provide secondary containment);
- (t) 20 DCMR §§ 4264.1 and 4265.1 (which incorporate 40 CFR §§ 264.194 or 265.194 by reference), (failure of owner or operator of tank system to comply with general operating requirements);
- (u) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.195 or 265.195 by reference), (failure of owner or operator of tank system to perform required inspections);
- (v) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.197 or 265.197 by reference), (failure of owner or operator of tank system to perform required closure or post-closure care);
- (w) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.198 or 265.198 by reference), (failure of owner or operator of tank system to comply with special requirements for ignitable or reactive wastes);
- (x) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.199 or 265.199 by reference), (failure of owner or operator of tank system to comply with special requirements for incompatible wastes or incompatible wastes and materials);

- (y) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.201 by reference), (failure of generator of between one hundred (100) and one thousand (1,000) kilograms per month that accumulates hazardous waste in tanks to comply with the special requirements in 40 CFR § 265.201);
- (z) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.373 by reference), (failure of owner or operator to comply with general operating requirements for thermal treatment);
- (aa) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.377 by reference), (failure of owner or operator to comply with monitoring and inspection requirements when thermally treating hazardous waste);
- (bb) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.381 by reference), (failure of owner or operator at closure to remove all hazardous waste and hazardous waste residues from thermal treatment process or equipment);
- (cc) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.401 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods to comply with general operating requirements);
- (dd) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.403 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods to comply with inspection requirements);
- (ee) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.404 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods, at closure, to remove all hazardous waste and hazardous waste residues);
- (ff) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.405 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods, to comply with special requirements for ignitable or reactive waste);
- (gg) 20 DCMR § 4265.1 (which incorporates 40 CFR § 265.406 by reference), (failure of owner or operator of facility that treats hazardous waste by chemical, physical, or biological methods to comply with special requirements for incompatible wastes or incompatible wastes and materials);
- (hh) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.573 or 265.443 by reference), (failure of owner or operator of drip pad to comply with design or operating requirements);

- (ii) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.575 or 265.445 by reference), (failure of owner or operator of drip pad to comply with closure standards);
- (jj) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.1101 or 265.1101 by reference), (failure of owner or operator of containment building to comply with design or operating standards);
- (kk) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.1102 or 265.1102 by reference) (failure of owner or operator of containment building to comply with the standards for closure or post-closure care);
- (ll) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.1201 or 265.1201 by reference), (failure of owner or operator who stores munitions or explosive hazardous wastes to comply with the design and operating standards);
- (mm) 20 DCMR §§ 4264.1 or 4265.1 (which incorporate 40 CFR §§ 264.1202 or 265.1202 by reference), (failure of owner or operator who stores munitions or explosive hazardous waste to comply with the standards for closure or post-closure care);
- (nn) Section 6(c)(17) of the Solid Waste Facility Permit Act of 1995 (**D.C. Official Code § 8-1055(c)(17)**) (owner or operator of solid waste facility allowing hazardous, infectious, or radioactive waste to remain on-site for more than twenty-four (24) hours);
- (oo) Section 6(c)(18) of the Solid Waste Facility Permit Act of 1995 (**D.C. Official Code § 8-1055(c)(18)**) (failure of owner or operator of solid waste facility to provide monthly report to the Department); or
- (pp) Violation of any provision of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978, as amended (D.C. Law 2-64; D.C. Official Code §§ 8-1301 to 8-1314 (2001)), or the Hazardous Waste Management Regulations, 20 DCMR chapters 42 and 43, that is not cited elsewhere in 16 DCMR § 3652.

NOTICE OF FINAL RULEMAKING

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with Title IX of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-609.01 *et seq.*) (2001) (CMPA), hereby gives notice that final rulemaking action was taken to adopt the following rules. These rules amend Chapter 9, Excepted Service, of Title 6 of the District of Columbia Municipal Regulations (DCMR), for the main purpose of adding a new section 903 to the chapter, "*Excepted Service Pay Plan*," on the Excepted Service Schedule ("ES Schedule") approved on July 6, 2005 by Council Resolution No. 16-219. Another key substantive change is to section 906 of the chapter, "*Excepted Service Appointments of Persons from Career or Educational Service*." The section was amended to add language explaining more specifically the "entitlements" of Career Service employees holding positions in the Career or Educational Service who are detailed, temporarily promoted, temporarily transferred, or temporarily reassigned without a break in service to positions that would otherwise be in the Excepted Service. The rest of the changes to the chapter are as follows: the heading of section 900 was changed from "*Applicability*" to "*Applicability and Age Requirements*," section 900.1 was amended, and new sections 900.2 and 900.3 were added; the heading of section 901 was changed from "*Excepted Service Classification Standards*" to "*Excepted Service Classification System and Standards*," a new section 901.1 was added, and section 901.1 was renumbered as 901.2 and amended; sections 902.1 through 902.6 were amended; sections 904.1 through 904.7 were amended; sections 905.1 through 905.4 were amended; sections 907.1 through 907.6 were amended; sections 908.1 through 908.3 were amended; section 909.1 was amended; section 910.1 was amended; sections 911.1 through 911.3, 911.5, and 911.7 were amended; the heading of section 912 was changed from "*Performance Incentives for Excepted Service*" to "*Performance Incentives and Incentive Awards for Excepted Service Employees*," and sections 912.1 through 912.7 were amended; section 913.1, and 913.4 through 913.6 were amended; the heading of section 914 was changed from "*Performance Management for Excepted Service*" to "*Performance Evaluation System for Excepted Service Employees*" and section 914.1 was amended; sections 915.1 through 915.12, and 915.14 through 915.23 were amended; and section 999 was amended to modify the definitions of the terms "*attorney*," "*Excepted Service*," "*hard-to-fill position*," "*performance contract*," "*personnel authority*," "*pre-employment travel expenses*," "*relocation expenses*," and "*temporary housing allowance*," and to add the definition of the terms "*biweekly pay period*" and "*separation pay*." No comments were received and no changes were made under the notice of proposed rulemaking published at 53 DCR 3985 (May 12, 2006). Final rulemaking action was taken on June 15, 2006.

CHAPTER 9

EXCEPTED SERVICE

Chapter 9 of the D.C. Personnel Regulations is amended as follows:

The heading of section 900 is changed from "Applicability" to "Applicability and Age Requirements;" section 900.1 is amended to read as follows; and new sections 900.2 and 900.3 are added to read as follows:

900 APPLICABILITY AND AGE REQUIREMENTS

- 900.1 This chapter applies to all appointments in the Excepted Service under the authority of Title IX of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-609.01 et seq.) (2001 and 2005 Supp.).
- 900.2 Unless otherwise required by law, all Excepted Service appointments, other than those appointed under the authority of section 904 of the CMPA (D.C. Official Code § 1-609.04) (2001), serve at the pleasure of the appointing personnel authority.
- 900.3 The minimum age for employment in the Excepted Service, unless a different age requirement is specifically provided in the law authorizing such appointment or position, is sixteen (16) years, except that the minimum age for any junior youth aide in the Department of Recreation and Parks and for summer employment is fourteen (14) years for a person appointed to a transitional position.

The heading of section 901 is changed from "Excepted Service Classification Standards" to "Excepted Service Classification System and Standards;" a new section 901.1 is added to read as follows; and section 901.1 is renumbered as 901.2 and amended to read as follows:

901 EXCEPTED SERVICE CLASSIFICATION SYSTEM AND STANDARDS

- 901.1 Notwithstanding the provisions in section 903 of this chapter on the establishment of the new Excepted Service Pay Schedule, the classification system or systems in effect on December 31, 1979 shall remain in effect until the adoption of a new classification system or systems pursuant to section 1102 of the CMPA (D.C. Official Code § 1-611.02) (2001), and shall be the system utilized to classify Excepted Service positions.
- 901.2 Each position in the Excepted Service will be classified as prescribed in Chapter 11 of these regulations, except that:
- (a) Statutory positions will be classified in a manner consistent with their governing statutes; and
 - (b) The personnel authority may adjust the grade or pay level, as applicable, or salary of a position to reflect the professional, scientific, or technical stature of an individual appointed as an expert or consultant.

902 EXCEPTED SERVICE QUALIFICATION STANDARDS

Sections 902.1 through 902.6 are amended to read as follows:

- 902.1 A person appointed to a position in the Excepted Service, other than a person appointed to a statutory position, must meet the minimum qualification standards established for the position to which the appointment is to be made.
- 902.2 The personnel authority may establish, adopt, and publish, new qualification standards for positions in the Excepted Service other than statutory positions. Until such standards are

established, adopted, and published, the federal government's "Qualification Standards Handbook for General Schedule Positions" and applicable supplementary publications will remain applicable.

- 902.3 Employment in the Excepted Service must comply with the provisions of the Immigration Reform and Control Act of 1986, as amended, that require employers to hire only citizens and nationals of the United States and aliens authorized to work, and to verify the identity and employment eligibility of all employees hired after November 6, 1986.
- 902.4 Pursuant to section 408 of the CMPA (D.C. Official Code § 1-604.08) (2001), each personnel authority will designate a person to administer the oath of office to each new employee of an agency. The oath is as follows: "I, (employee's name), do solemnly swear (or affirm) that I will faithfully execute the laws of the United States of America and of the District of Columbia, and will to the best of my ability, preserve, protect and defend the Constitution of the United States, and will faithfully discharge the duties of the office of which I am about to enter."
- 902.5 Accordingly, each personnel authority will determine whether an applicant or appointee is or has been involved in any activities that constitute a reasonable basis for concluding that the candidate would not faithfully discharge the duties of the position for which he or she is being considered.
- 902.6 For purposes of this chapter, a person who advocates the overthrow of the governments of the United States or the District of Columbia by unconstitutional means will be considered unsuitable for employment with the District government.

Previous section 903, "Age Requirements," is deleted; and a new section 903, "Excepted Service Pay Plan," is added to read as follows:

903 EXCEPTED SERVICE PAY PLAN

- 903.1 An Excepted Service Pay Schedule ("ES Schedule") has been established as the basic pay schedule for all Excepted Service positions. The ES Schedule, which was approved on July 6, 2005 by Council Resolution No. 16-219, is a merit-based plan that provides for market competitive open-salary ranges with progression based on performance, and replaces the salary schedule structure for Excepted Service positions consisting of grade levels and ten (10) steps.
- 903.2 The structure and application of the ES Schedule will provide flexibility in hiring and compensation for Excepted Service positions. Some of the features of a merit-based pay plan such as the new ES Schedule are:
- (a) Merit pay or pay for performance systems provide the flexibility to:
 - (1) Combine merit or performance-based increases with what is commonly known as a "cost-of-living-adjustment" or "market adjustment," or
 - (2) Base the total salary increase the employee receives solely on merit (performance);

- (b) Base-pay increases vary in direct relationship to each employee's performance level;
- (c) The system differentiates between various levels of performance and rewards employees through additional compensation accordingly;
- (d) Success of the system depends on accurate and realistic performance evaluations by supervisors; and
- (e) The system provides flexibility for varying budget constraints and revenues.

- 903.3 The ES Schedule is divided into eleven (11) pay levels (ES 1 through ES 11). Instead of the typical ten (10) steps, each pay level of the ES Schedule has an open range with no steps, only a "minimum," "midpoint," and "maximum" as reference points of the range.
- 903.4 Application of the ES Schedule must ensure compliance with the principle of equal pay for substantially equal work contained in section 1103 (a)(2) of the CMPA (D.C. Official § 1-611.03 (a)(2)) (2001).
- 903.5 As appropriate, Excepted Service employees converted into the ES Schedule will be treated as employees in other services in the application of other compensation regulations contained in Chapter 11 of these regulations.
- 903.6 For the purposes of determining the new pay level of Excepted Service employees upon their initial conversion into the ES Schedule, the following will apply:

Old Pay Structure Based on Grade Levels and Steps	New Pay Structure under the ES Schedule
Grade Levels 5/6	ES 1
Grade Levels 7/8	ES 2
Grade Level 9	ES 3
Grade Level 10	ES 4
Grade Level 11	ES 5
Grade Level 12	ES 6
Grade Level 13	ES 7
Grade Levels 14/15	ES 8
Grade Levels 15/16	ES 9
Grade Levels 16/17	ES 10
Grade Level 18	ES 11*

*Pay level ES 11 is limited to Deputy Mayor positions.

- 903.7 During fiscal year 2006, the following shall apply concerning the granting of salary increases to Excepted Service employees converted into the ES Schedule in 2005:
- (a) Excepted Service employees in agencies under the personnel authority of the Mayor who are paid from the ES Schedule and received an official performance rating of at least "Meets Expectations" for the rating period that ended on September 30, 2005 will receive a salary increase consisting of a market adjustment of three percent (3%), plus a varying additional merit increase based on the official performance rating, to be determined using the percentage scale in section 903.7 (b) of this section. Employees

who received an official rating below the "Meets Expectations" level will not receive a salary increase of any kind.

- (b) The scale below is based on the rating levels under the Performance Management Program (PMP), which is the performance appraisal system applicable to Excepted Service employees in agencies under the personnel authority of the Mayor:

PMP PERFORMANCE RATING LEVEL FOR RATING PERIOD ENDING SEPTEMBER 30, 2005	PERCENTAGE OF MARKET ADJUSTMENT FOR FY 2006	PERCENTAGE OF PERFORMANCE- BASED OR MERIT PAY INCREASE FOR FY 2006	TOTAL PERCENTAGE OF SALARY INCREASE FOR FY 2006
Level 5 – Significantly Exceeds Expectations	3%	3.5%	6.5%
Level 4 – Exceeds Expectations	3%	2%	5%
Level 3 – Meets Expectations	3%	1%	4%
Level 2 – Needs Improvement	0%	0%	0%
Level 1 – Does Not Meet Expectations	0%	0%	0%

- (c) Independent agencies that converted their Excepted Service employees to the ES Schedule in 2005 shall determine the percentage of salary increases (market adjustment, merit increase, or both) for these employees during fiscal year 2006, if any, and may use the scale in section 903.7 (b) of this section as a guide.
- (d) With the exception noted in section 903.7 (d)(3) below, the following employees are not eligible to receive the salary increase specified in section 903.7 (a) of this section:
- (1) Any employee who received an official performance evaluation of "Needs Improvement" (Level 2) or "Does Not Meet Expectations" (Level 1) for the rating period that ended on September 30, 2005;
 - (2) An individual first hired into an Excepted Service position (including conversion actions) on or after July 1, 2005; and
 - (3) Any employee who did not receive a performance rating for the period that ended on September 30, 2005, unless the employee's supervisor completes a performance review for the employee by April 14, 2006. Any such performance

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review shall be submitted to the Director, D.C. Office of personnel, by the April 14, 2006 deadline.

- (e) An employee who was in the active rolls of his or her employing agency on or before June 30, 2005, but did not receive a Performance Plan by June 30, 2005, may receive the market adjustment portion of the salary increase only, upon written certification of satisfactory performance for the rating period that ended on September 30, 2005, to be completed by the employee's supervisor and submitted to the Director, D.C. Office of Personnel, by April 14, 2006.
- (f) An eligible Excepted Service employee whose salary is at the top of the range for the pay level of the position he or she occupies and who received an official performance rating of at least "Meets Expectations" (Level 3) for the rating period that ended on September 30, 2005 will receive a one-time (1-time) lump sum payment, the amount of which shall not exceed the total percentage specified in the scale in section 903.7 (b) of this section for the performance rating received by the employee.
- (g) The salary increase will have an effective date retroactive to the pay period beginning on January 8, 2006, and will be paid to eligible employees not later than the pay period beginning on March 19, 2006. The salary increase shall be paid only to eligible employees who are in the active rolls of their employing agencies on the effective date of the increase.
- (h) Employees described in sections 903.7 (d)(3) or 903.7 (e) of this section who receive a performance rating of at least "Meets Expectations" (Level 3), or receive the supervisory certification of satisfactory performance by the April 14, 2006 deadline, respectively, will be paid the applicable salary increase as soon as practicable after that date.

903.8 Beginning on October 1, 2006, eligible employees paid under the ES Schedule shall not receive more than one (1) salary increase in a calendar year (annual salary increase). Sections 903.9 through 903.12 of this section explain the requirements and conditions for annual salary increases beginning on October 1, 2006, and every fiscal year thereafter.

903.9 Annual salary increases will become effective on the last full biweekly pay period in the calendar year (pay period number twenty-six (26), or pay period number twenty-seven (27), as may occur from time to time), beginning on December 10, 2006, and every year thereafter, provided that the following requirements are met:

- (a) The employee received a Performance Plan for the year; and
- (b) The employee's level of competence and job performance is determined to be acceptable or better, as evidenced by a performance rating of "Meets Expectations" (Level 3), or higher, for Excepted Service employees whose performance is rated using the PMP in Chapter 14 of these regulations.

903.10 For the purposes of sections 903.8 and 903.12 of this section, the term "salary increase" means:

- (a) A market adjustment;
- (b) A merit-pay increase based on performance as specified in section 903.9 (a) of this section; or
- (c) A market adjustment, plus a merit-pay increase based on performance as specified in section 903.9 (a) of this section combined.

903.11 Each personnel authority, in consultation with the Office of the Chief Financial Officer, shall:

- (a) Plan for and determine the payroll cost of salary increases every year for agency Excepted Service employees who meet the requirements in section 903.9 (a) and (b) of this section;
- (b) Determine the total percentage of the annual salary increases for these employees; and
- (c) Communicate the plan to agency heads every year.

903.12 An eligible Excepted Service employee whose salary is at the top of the range for the pay level of the position he or she occupies and who meets the requirements in section 903.9 (a) and (b) of this section, will receive a one-time (1-time) lump sum payment for the calendar year in question, the amount of which shall not exceed the total percentage afforded to other eligible agency employees with the same performance rating.

903.13 The Director, D.C. Office of Personnel, will determine the salary levels for Capital City Fellows.

903.14 The salary of an employee paid under the ES Schedule may be reduced for unacceptable performance or for misconduct that does not warrant separation.

903.15 Nothing in this section shall prevent Excepted Service employees paid under the ES Schedule from receiving performance incentives and incentives awards in accordance with section 912 of this chapter and Chapter 19 of these regulations.

904 EXCEPTED SERVICE POSITIONS

Sections 904.1 through 904.7 are amended to read as follows:

- 904.1 Statutory positions under section 908 of the CMPA (D.C. Official Code § 1-609.08) (2001), include those occupied by employees who by statute serve at the pleasure of the appointing authority, or as provided by statute for a term of years, subject to removal for cause as may be provided in their appointing statute.
- 904.2 Public employment positions under section 904 (1) of the CMPA (D.C. Official Code § 1-609.04 (1)) (2001), include positions created under public employment programs established by law.
- 904.3 Transitional positions under section 904 (2) of the CMPA (D.C. Official Code § 1-609.04 (2)) (2001), include positions established under special employment programs of a transitional nature designed to provide training or job opportunities for rehabilitation purposes, including

developmentally disabled or handicapped persons, ex-offender or other disadvantaged groups.

904.4 Special category positions under section 904 (3), (4), and (5) of the CMPA (D.C. Official Code § 1-609.04 (3), (4), and (5)) (2001), respectively, include the following:

- (a) Positions occupied by Federal, state, or local government employees under the mobility provisions of the Intergovernmental Personnel Act of 1970, approved January 5, 1971 (P.L. 91-648; 84 Stat. 1909; 5 U.S.C. § 3301 et seq.), or a temporary personnel exchange agreement as authorized under Chapter 27 of these regulations;
- (b) Positions established by personnel authorities, other than the D.C. Board of Education or the Board of Trustees of the University of the District of Columbia, under federal grant-funded programs that have a limited or indefinite duration and are not subject to state merit requirements; and
- (c) Professional, scientific, or technical expert or consultant positions.

904.5 Training positions under section 904 (6) of the CMPA (D.C. Official Code § 1-609.04 (6)) (2001), consist of positions established under cooperative educational and study programs, positions established under a predoctoral or postdoctoral training program under which employees receive a stipend, and positions occupied by persons who are graduate students under temporary appointments when the work performed is the basis for completing certain academic requirements for advanced degrees.

904.6 Policy positions under section 903 (a) of the CMPA (D.C. Official Code § 1-609.03 (a)) (2002 Supp.) are positions reporting directly to the head of the agency, with primary duties of a policy determining, confidential, or policy advocacy character, and shall consist of the following:

- (a) Positions on the staff of the Mayor and paid from funds appropriated for the Office of the Mayor;
- (b) Not more than two hundred twenty (220) positions in subordinate agencies as designated by the Mayor, sixty (60) of which may be allotted to and designated by the Office of the Inspector General and, in a control year, up to twenty (20) shall be allocated to and designated by the Office of the Chief Financial Officer;
- (c) All positions occupied by employees of the Council of the District of Columbia, except those permanent technical and clerical employees appointed by the Secretary or General Counsel;
- (d) The District of Columbia Auditor may designate four (4) positions;
- (e) Not more than twenty-five (25) positions selected by the D.C. Board of Education;

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- (f) Positions occupied by persons appointed by the Board of Trustees of the University of the District of Columbia as officers of the University, those who report directly to the President, those who head major units of the University, academic administrators, and persons in a confidential relationship to any of the foregoing, exclusive of those appointed under section 801 (a) of the CMPA (D.C. Official Code § 1-608.01 (a)) (2001);
- (g) Not more than ten (10) positions selected by the District of Columbia Health and Hospitals Public Benefit Corporation;
- (h) Not more than six (6) persons appointed by the District of Columbia Lottery and Charitable Games Control Board who report directly to either the Executive Director or Deputy Director, or who head major units of the Board;
- (i) The Chief of Police may designate up to one percent (1%) of the total number of authorized positions within the Metropolitan Police Department, no more than ten (10) of which may be filled by sworn members or officers;
- (j) Notwithstanding any other law or regulation, the Chief of the Fire and Emergency Medical Services Department may designate up to eleven (11) positions, no more than four (4) of which may be filled by sworn members;
- (k) All employees of the Criminal Justice Coordinating Council;
- (l) The Advisory Commission on Sentencing may appoint six (6) persons; and
- (m) Not more than two (2) positions selected by each other personnel authority not expressly designated in this section.

904.7 A statutory or policy position described in section 904.1 or section 904.6 of this chapter and occupied by a person holding an appointment to an attorney position will be treated solely as a statutory or policy position, as the case may be.

905 METHOD OF MAKING EXCEPTED SERVICE APPOINTMENTS

Sections 905.1 through 905.4 are amended to read as follows:

- 905.1 A person may be appointed to any position in the Excepted Service by the appropriate personnel authority non-competitively, provided that the individual appointed meets the qualification standards established for the position.
- 905.2 An appointment to a statutory position will be made as specified in the law authorizing the position.
- 905.3 An appointment to a special category position under a federal grant-funded program will be either for an indefinite period or a time-limited appointment, reflecting the duration of the grant.

- 905.4 An appointment to a policy position shall be subject to the following provisions:
- (a) Each person appointed to a policy position shall perform duties that include policy determination, or that are of a confidential or policy advocacy character;
 - (b) Each personnel authority authorized to make appointments to policy positions shall ensure that the position to which the appointment is to be made, together with the position qualifications, standards, and salary range, is published in the D.C. Register;
 - (c) The position shall become a position in the Excepted Service automatically upon being filled by a policy appointment, and shall remain an Excepted Service position only for so long as filled by a policy appointment; if a Career or Educational Service employee holds a position converted to an Excepted Service position, and the employee is not afforded or does not accept a policy appointment to that position, the employee shall have all rights and remedies available under Chapter 24 of these regulations;
 - (d) An appointment to a policy position may be either for an indefinite or time-limited period;
 - (e) Each personnel authority, within forty-five (45) days of filling any such designated position by a policy appointment, shall publish in the D.C. Register the name of the person accepting the policy appointment, and the position to which appointed; and
 - (f) The authority to make policy appointments may be delegated or redelegated in whole or in part.

906 EXCEPTED SERVICE APPOINTMENT OF PERSONS FROM CAREER OR EDUCATIONAL SERVICE

Sections 906.1 through 906.3 are amended to read as follows:

- 906.1 Any person holding a position in the Career or Educational Service may be detailed, temporarily promoted, temporarily transferred, or temporarily reassigned, without a break in service to a position that would otherwise be in the Excepted Service, without losing his or her existing status in the Career or Educational Service.
- 906.2 Before effecting an appointment to a position in the Excepted Service under section 906.1 of this section, the appointing personnel authority must first inform the appointee, in writing, of the conditions of employment under the new appointment, and that the appointee will not lose his or her existing status in the Career or Educational Service, as applicable. The appointee must accept or decline the appointment, also in writing.
- 906.3 Any person tendered an appointment to a position in the Excepted Service under this section who declines or refuses to accept such appointment will continue to be subject to the rules applicable to the service in which he or she has existing status as provided in section 906.1 of this section.

A new section 906.4 is added to read as follows:

- 906.4 The temporary nature of an appointment under this section must be clearly stated and recorded on the appointing personnel action or actions. As a means of so stating, the appointing personnel authority may specify the anticipated duration of the temporary appointment by including a not-to-exceed (NTE) date to the appointing personnel action(s). Additionally, the appointing personnel action(s) must include remarks specifying all of the following:
- (a) The temporary nature of the appointment to the Excepted Service position;
 - (b) That the appointee was informed in writing of the conditions of employment under the new appointment, and accepted the appointment;
 - (c) That the appointee will not lose his or her existing status in the Career or Educational Service by accepting the temporary appointment to the Excepted Service position; and
 - (d) That, upon termination of the temporary appointment to the Excepted Service position, the appointee is entitled to be returned to the Career or Educational Service position he or she occupied prior to the temporary assignment, or to an equivalent position.

907 EMPLOYEE RIGHTS

Sections 907.1 through 907.6 are amended to read as follows:

- 907.1 A person appointed to a position in the Excepted Service will not acquire permanent Career status.
- 907.2 A person appointed to the Excepted Service serves at the pleasure of the appointing personnel authority, and may be terminated at any time, with or without a stated reason, except as provided in this section.
- 907.3 A person holding an appointment in a statutory position who is appointed in accordance with a law that provides for a term of years subject only to removal for cause, may be removed only as provided for in the applicable law.
- 907.4 Except as provided in section 907.3 of this section, and in accordance with section 905 of the CMPA (D.C. Official Code § 1-609.05) (2001), a person holding an appointment in the Excepted Service is entitled to advance written notice of at least fifteen (15) days when termination is contemplated. The notice may explain the reason for the termination.
- 907.5 The fifteen-day (15-day) notice is not required for termination on the date previously anticipated for termination, such as in the case of an employee with a not-to-exceed (NTE) date or other date of anticipated termination included on the appointing personnel action form.
- 907.6 Any person holding an appointment in the Excepted Service to a policy position, whose position ceases to be authorized as a policy position by reason of a notice published in the D.C. Register in accordance with section 905.4 of this chapter, is to be terminated not later than thirty (30) days from the date of the published notice, except that the minimum advance written notice provision of section 907.4 of this section will apply, as appropriate.

908 RESTRICTIONS ON SUBSEQUENT APPOINTMENT TO THE CAREER, MANAGEMENT SUPERVISORY, OR EDUCATIONAL SERVICES

Sections 908.1 through 908.3 are amended to read as follows:

- 908.1 In accordance with section 902 of the CMPA (D.C. Official Code § 1-609.02 (2001), and except as provided in section 908.2 of this section, no person holding an Excepted Service appointment pursuant to sections 904.1 or 904.6 of this chapter may be appointed to a position in the Career, Management Supervisory, or Educational Service during the six-month (6-month) period immediately preceding a Mayoral election.
- 908.2 Upon termination, a person holding an Excepted Service appointment pursuant to sections 904.1 or 904.6 of this chapter who has Career or Educational Service status may retreat, at the discretion of the terminating personnel authority, within three (3) months of the effective date of the termination, to a vacant position in such service for which he or she is qualified.
- 908.3 The provisions of sections 908.1 and 908.2 of this section shall not apply to employees of the Council of the District of Columbia.

909 RESIDENCY REQUIREMENTS

Section 909.1 is amended to read as follows:

- 909.1 The residency and domicile requirements imposed by law and Chapter 3 of these regulations are applicable to all persons appointed to positions in the Excepted Service.

910 DUAL COMPENSATION AND ANNUITY OFF-SET

Section 910.1 is amended to read as follows:

- 910.1 A person holding an appointment in the Excepted Service is subject to the dual compensation and annuity off-set requirements of law and regulations.

911 PRE-EMPLOYMENT TRAVEL, RELOCATION, AND TEMPORARY HOUSING ALLOWANCE

Sections 911.1 through 911.3 are amended to read as follows:

- 911.1 In accordance with section 903 (g)(1) of the CMPA (D.C. Official Code § 1-609.03 (g)(1)) (2002 Supp.), an agency may pay to an individual reasonable travel expenses, up to a maximum of five thousand dollars (\$5000), incurred incidental to pre-employment interviews held for the purpose of ascertaining his or her qualifications for a hard-to-fill policy position in the Excepted Service at grade level DS 11 or pay level ES 5, as applicable, or above.
- 911.2 In accordance with section 903 (g)(2) of the CMPA (D.C. Official Code § 1-609.03 (g) (2)) (2002 Supp.), an agency may pay reasonable relocation expenses for an individual and his or

her immediate family when that individual is selected for or appointed to a hard-to-fill policy position in the Excepted Service at grade level DS 11 or pay level ES 5, as applicable, or above, if relocation is to the District of Columbia from outside the Greater Washington Metropolitan Area.

- 911.3 In the case of an individual eligible for relocation expenses pursuant to section 911.2 of this section, an agency may pay reasonable temporary housing allowance for a period not to exceed sixty (60) days for the individual and his or her immediate family.
- 911.4 The personnel authority may designate a position as a hard-to-fill position on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

Section 911.5 is amended to read as follows:

- 911.5 Payment of expenses under sections 911.2 and 911.3 of this section may only be made after the selectee or appointee signs a notarized agreement to remain in the District government service for twelve (12) months after his or her appointment unless separated for reasons beyond his or her control which are acceptable to the agency head concerned.
- 911.6 Any expense incurred for which reimbursement is sought pursuant to this section must be supported by valid receipts or invoices, the originals of which must be submitted with the request for reimbursement.

Section 911.7 is amended to read as follows:

- 911.7 If an individual violates an agreement under section 911.5 of this section, the money paid by the District government for expenses will become a debt due the District government and will be recovered by set-off in accordance with Chapter 29 of these regulations, against accrued pay or any other amount due the individual, and by other lawful collections actions.

The heading of section 912 is changed from "Performance Incentives for Excepted Service" to "Performance Incentives and Incentive Awards for Excepted Service Employees;" and sections 912.1 through 912.7 are amended to read as follows:

912 PERFORMANCE INCENTIVES AND INCENTIVE AWARDS FOR EXCEPTED SERVICE EMPLOYEES

- 912.1 In accordance with section 903 (e) of the CMPA (D.C. Official Code § 1-609.03 (e)) (2002 Supp.), a personnel authority may authorize performance incentives for exceptional service by an employee appointed to an Excepted Service policy position under section 903 (a) of the CMPA (D.C. Official Code § 1-609.03 (a)) (2002 Supp.).
- 912.2 Any performance incentive awarded under this section will be paid only once in a fiscal year, and only when the employee is subject to an annual performance contract that clearly identifies measurable goals and outcomes and the employee has exceeded contractual expectations in the year for which the incentive is to be paid.

- 912.3 For Excepted Service employees in agencies under the personnel authority of the Mayor, when there is no annual performance contract as described in section 912.2 of this section, the employee's annual individual performance plan pursuant to Chapter 14 of these regulations will be considered the annual performance contract for the purpose of authorizing a performance incentive.
- 912.4 A performance incentive shall not exceed ten percent (10%) of the employee's rate of basic pay. For the purposes of determining the percentage of a performance incentive, the amount of the incentive will be calculated based on the employee's scheduled rate of basic pay during the performance rating period in which the exceptional service occurred, pursuant to Chapter 19 of these regulations. The percentage scale provided in Chapter 19, and the documentation required therein, will also apply to performance incentives pursuant to this section.
- 912.5 In addition to performance incentives in accordance with this section, Excepted Service employees are eligible for incentive awards pursuant to Chapter 19 of these regulations, except for monetary awards.
- 912.6 Performance incentives must be submitted, processed and approved in accordance with Chapter 19 of these regulations.
- 912.7 A performance incentive awarded under this section will not be considered base pay for any purpose, and will be subject to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable. The amount of a performance incentive cannot be adjusted upward to cover these taxes.

913 SEPARATION PAY

Section 913.1 is amended to read as follows:

- 913.1 In accordance with section 903 (f) of the CMPA (D.C. Official Code § 1-609.03 (f)) (2001) and subject to the provisions of this section, an individual appointed to an Excepted Service policy position or an Excepted Service statutory position shall be paid separation pay at his or her rate of basic pay upon separation for non-disciplinary reasons, as follows:
- (a) An individual at grade level DS-15 (or equivalent) or pay level ES 9, as applicable, or above, will be paid separation pay in increments of weeks up to a maximum of eight (8) weeks, unless the personnel authority specifies that separation pay of up to twelve (12) weeks is warranted; and
 - (b) An individual at grade level DS-14 (or equivalent) or pay level ES 8, as applicable, or below, will be paid separation pay in increments of weeks up to a maximum of four (4) weeks, unless the personnel authority specifies that separation pay of up to twelve (12) weeks is warranted.
- 913.2 The number of weeks of separation pay authorized pursuant to this section shall not exceed the number of weeks between the individual's separation and the individual's appointment to another position in the District government.

- 913.3 Separation pay shall be provided at the time of separation as a lump-sum, one-time payment, subject only to the withholdings of federal, District of Columbia, and State income taxes, and social security taxes, if applicable.

Sections 913.4 through 913.6 are amended to read as follows:

- 913.4 Separation pay is not payable to any individual who either:
- (a) Has accepted an appointment to another position in the District government without a break in service; or
 - (b) Is eligible to receive an annuity under any retirement program for employees of the District government, excluding the District retirement benefit program under section 2605 of the CMPA (D.C. Official Code § 1-626.05) (2001).
- 913.5 An individual who receives separation pay pursuant to this section, but who is subsequently appointed to any position in the District government during the period of weeks represented by that payment, will be required to repay the amount of separation pay attributable to the period covered by such appointment. The pro-rated amount to be repaid will be based on the entire amount of the separation pay, including all required deductions, and is payable to the General Fund of the District of Columbia.
- 913.6 Separation pay for any individual covered by this section will not exceed four (4) weeks of his or her basic pay unless he or she has been a District government employee for at least one (1) year prior to the separation.

The heading of section 914 is changed from "Performance for Excepted Service" to "Performance Evaluation System for Excepted Service Employees;" and section 914.1 is amended to read as follows:

914 PERFORMANCE EVALUATION SYSTEM FOR EXCEPTED SERVICE EMPLOYEES

- 914.1 Except as provided in section 1414 of Chapter 14 of these regulations, the performance of employees in the Excepted Service will be evaluated utilizing the performance management system in that chapter.

915 ATTORNEY CERTIFICATE OF GOOD STANDING FILING REQUIREMENT

Sections 915.1 through 915.12 are amended to read as follows:

- 915.1 In accordance with section 881 (a) of the CMPA (D.C. Official Code § 1-608.81 (a)) (2005 Supp.), the provisions of this section are applicable to each attorney appointed in the Excepted Service at the level DS-13 (or "ES 7" for Excepted Service attorneys who are compensated under the ES Schedule) or equivalent and above who is required to be a member of the D.C. Bar as a prerequisite of employment, and who is employed by:

- (a) The Office of the Chief Financial Officer;

- (b) Any agency, independent or subordinate, and whose duties, in whole or substantial part, consist of hearing cases as an administrative law judge or as an administrative hearing officer; and
 - (c) Any independent agency excluded from the Legal Service, including the Housing Finance Agency, Pretrial Services Agency, Water and Sewer Authority, and Housing Authority.
- 915.2 Not later than December 15 of each year, or as specified in sections 915.18 and 915.19 of this section, each attorney as described in section 915.1 of this section must file with the D.C. Office of Personnel a certificate of good standing from the Committee on Admissions, D.C. Court of Appeals.
- 915.3 Except as specified in sections 915.18 and 915.19 of this section, the certificate of good standing submitted every year pursuant to this section must be dated not earlier than October 1 and not later than December 15 of the year of submission.
- 915.4 Each subordinate agency or independent personnel authority that employs Excepted Service attorneys subject to the filing requirement is responsible for:
- (a) Notifying each agency attorney of the filing requirement every year; and
 - (b) Submitting a list of agency attorneys subject to the filing requirement to the Director of Personnel every year, not later than the December 15 deadline.
- 915.5 Notwithstanding the procedures in section 915.2 of this section, each subordinate agency or independent personnel authority may elect to submit every year to the Committee on Admissions, D.C. Court of Appeals, a consolidated listing requesting certificates of good standing (certificates) for each agency attorney subject to the filing requirement, and file the original individual certificates with the D.C. Office of Personnel on behalf of each attorney.
- 915.6 A subordinate agency or independent personnel authority that elects to submit a consolidated listing as specified in section 915.5 of this section is responsible for establishing internal procedures for the compilation of the consolidated listing and every year inform each attorney subject to the filing requirement of the internal procedures. Any consolidated listing submitted to the Committee on Admissions, D.C. Court of Appeals (Court) must include, at a minimum, the following:
- (a) The attorney's name and bar number and, if necessary, some other identifier such as the attorney's date of admission to the D.C. Bar;
 - (b) A request that an individual certificate be prepared for each attorney in good standing from the names submitted in the consolidated listing; and
 - (c) A request that the Court specify which attorneys, from the names submitted in the consolidated listing, are not in good standing.

- 915.7 Any consolidated listing prepared pursuant to section 915.5 of this section must be submitted to the Committee on Admissions, D.C. Court of Appeals, as soon after October 1 of each year as practicable, but not later than November 15 of each year.
- 915.8 Nothing in this section prevents an attorney subject to the filing requirement from individually applying for the certificate of good standing (certificate) from the Committee on Admissions, D.C. Court of Appeals, and filing the certificate directly with the D.C. Office of Personnel by December 15 of each year.
- 915.9 Each subordinate agency head or independent personnel authority that elects to submit a consolidated listing to the Committee on Admissions, D.C. Court of Appeals (Court) pursuant to section 915.5 of this section will provide every year to the Director of Personnel:
- (a) Each original individual certificate of good standing received;
 - (b) The name of each attorney who is not in good standing and any documentation from the Court to that effect; and
 - (c) A copy of the consolidated listing submitted to the Court.
- 915.10 Upon receipt of the original individual certificate of good standing (certificate) from each attorney, or subordinate agency or independent personnel authority on his or her behalf, the Director of Personnel (or his or her designee) will:
- (a) File the original individual certificates in a place designated for that purpose; and
 - (b) In the case of an attorney who is not in compliance with the filing requirement, forward the name to the appropriate agency head.
- 915.11 Notwithstanding any other provision in this section, the Director of Personnel may establish internal procedures to identify every year each attorney as described in section 915.1 of this section who is subject to the filing requirement and subsequently identify any attorney who did not comply with the filing requirement.
- 915.12 Failure of any attorney as described in section 915.1 of this section, either individually, or through his or her employing subordinate agency or independent personnel authority, to file the certificate of good standing with the D.C. Office of Personnel by December 15 of each year, or as specified in sections 915.18 or 915.19 of this section, will result in forfeiture of employment.
- 915.13 Upon written request from an attorney subject to the filing requirement, the Director of Personnel or independent personnel authority may grant a temporary waiver of the filing requirement to the attorney if compliance with the filing requirement by December 15 is inordinately difficult due to circumstances beyond his or her control or other good cause.

Sections 915.14 through 914.23 are amended to read as follows:

- 915.14 Any request for a temporary waiver of the filing requirement must be submitted by the attorney to the Director of Personnel or independent personnel authority not later than December 1.
- 915.15 The Director of Personnel or independent personnel authority will grant a temporary waiver of the filing requirement to an attorney who has exercised due diligence in applying to be waived in to the D.C. Bar from another jurisdiction but does not anticipate being waived in by December 15.
- 915.16 A request for temporary waiver of the filing requirement must include all of the following:
- (a) The reason or reasons for the request;
 - (b) The date of appointment to the attorney position subject to the filing requirement;
 - (c) In the case of an attorney as described in section 915.15 of this section, the date he or she submitted application to be waived in to the D.C. Bar; and
 - (d) Any appropriate or required supporting material or documentation to substantiate the request.
- 915.17 The Director of Personnel or independent personnel authority will promptly determine whether to grant the request for a temporary waiver of the filing requirement and notify the attorney in writing. A notification granting the request must inform the attorney of the deadline to file prescribed in section 915.18 of this section. A notification denying the request must inform the attorney of the following:
- (a) The reason or reasons for the denial of the request;
 - (b) That he or she has thirty (30) days from the receipt of the notification denying the request to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;
 - (c) That he or she will be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and
 - (d) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.
- 915.18 An attorney granted a temporary waiver of the filing requirement (waiver) must file a certificate of good standing (certificate) with the D.C. Office of Personnel within thirty (30) days of being admitted to the D.C. Bar. A certificate filed pursuant to this subsection must not be dated earlier than the date of the written request for the waiver submitted by the employee.

- 915.19 When a personnel action placing an employee in an attorney position subject to the filing requirement, such as in the case of a promotion to a grade DS-13 (or "ES 7" for Excepted Service attorneys who are compensated under the ES Schedule) or equivalent, becomes effective on or after the December 15 deadline, the attorney will file a certificate of good standing (certificate) with the D.C. Office of Personnel within thirty (30) days of the effective date of such personnel action. A certificate filed pursuant to this subsection must not be dated earlier than the effective date of the personnel action that placed the employee in the attorney position subject to the filing requirement.
- 915.20 Upon establishing the effective date of a personnel action as described in section 915.19 of this section and processing the action, the Director of Personnel or independent personnel authority will promptly inform the affected employee, in writing, of the deadline to file prescribed in section 915.19 of this section.
- 915.21 Each subordinate agency or independent personnel authority will provide a written notice of the intent to terminate employment to any agency attorney who is not in compliance with the filing requirement (requirement), except that in the case of a denial of a request for a temporary waiver of the requirement, notification will be accomplished as specified in section 915.17 of this section. The notice will inform the attorney:
- (a) That he or she has thirty (30) days from the receipt of the notice to attempt to file the certificate of good standing (certificate) with the D.C. Office of Personnel;
 - (b) That he or she will be terminated at the end of the prescribed thirty-day (30-day) period if unable to file the certificate with the D.C. Office of Personnel within the prescribed period; and
 - (c) The effective date of termination in the event that he or she is unable to file the certificate with the D.C. Office of Personnel within the prescribed period.
- 915.22 Each appointee to an attorney position subject to the filing requirement (requirement) will be notified by the appropriate personnel authority at the time of hire, in writing, of the requirement, and that failure to comply by December 15 of each year or as specified in sections 915.18 and 915.19 of this section, as applicable, will result in forfeiture of employment.
- 915.23 Not later than March 1 of each year after the December 15 filing deadline for the preceding year, the Director of Personnel will publish in the D.C. Register the list of attorneys who have not met the filing requirement.

Section 999 is amended as follows:

999 DEFINITIONS

The definitions of the terms "attorney;" "Excepted Service;" "hard-to-fill position;" "performance contract;" "personnel authority;" "pre-employment travel expenses;" "relocation expenses;" and "temporary housing allowance" are amended to read as follows; and the definition of the term "biweekly pay period" is added to read as follows:

999.1 In this chapter, the following terms have the meaning ascribed:

Attorney – a position that is classified as part of Series 905, except for a position in the Legal Service.

Biweekly pay period – the two-week (2-week) period for which an employee is scheduled to perform work.

Excepted Service – positions identified as being statutory, transitional, public employment, special category, training, or policy positions, and authorized by sections 901 through 908 of the CMPA (D.C. Official Code § 1-609.01 through 1-609.08) (2001). These positions are not in the Career, Educational, Management Supervisory, Legal or Executive Service.

Hard-to-fill position – a position designated as a hard-to-fill position pursuant to section 911.4 of this chapter on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

Performance contract – an agreement between an employee in an Excepted Service policy position under section 903 (a) of the CMPA (D.C. Official Code § 1-609.03 (a)) (2002 Supp.) and the personnel authority that may be entered into and that clearly identifies measurable goals and outcomes.

Personnel authority – an individual or entity with the authority to administer all or part of a personnel management program as provided in section 401 of the CMPA (D.C. Official Code § 1-604.01 *et seq.*) (2001).

Pre-employment travel expenses – expenses allowed for an individual pursuant to section 911.1 of this chapter, which may include such items as hotel accommodations, travel (commercial carrier, privately owned vehicle, etc.), and a per diem allowance.

Relocation expenses – expenses allowed for an individual and his or her immediate family pursuant to section 911.2 of this chapter, which may include such items as transportation of family, transportation of household goods and expenses related thereto, temporary storage expenses, relocation services company, property management services, and a per diem allowance.

Separation pay – compensation to be paid to an individual upon separation from the Excepted Service for non-disciplinary reasons as specified in section 913 of this chapter. Separation pay is computed based on the individual's rate of basic pay at the time of separation, and the maximum amount of separation pay an individual may receive upon separation is twelve (12) weeks.

Temporary housing allowance – subsistence expenses incurred by an individual and his or her immediate family while occupying lodging obtained for the purpose of temporary occupancy when authorized pursuant to section 911.3 of this chapter.

NOTICE OF FINAL RULEMAKING

DOCKET NUMBER 05-101-PS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the adoption of the following rulemaking which amends the Vehicle and Traffic Regulations (18 DCMR), Chapter 24 Temporary and Emergency Restrictions. Final action to adopt this rulemaking was taken on June 21, 2006. No comments have been received and no changes have been made to the text of the proposal as published on April 21, 2006 (Vol.53 Pg.3297). This final rulemaking will be effective when published in the D.C. Register.

Rulemaking action, pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), is justified by the following circumstances:

In every District neighborhood, it is necessary from time to time to prohibit general parking to allow for special events, tree trimming, delivery vans and so forth. Businesses and citizens may request temporary parking restrictions and may receive temporary no parking signs, which must be erected early enough to warn other drivers to move their vehicles to avoid a citation. The regulations in their current form define what that time limit is for commercial parking zones, but not residential parking zones.

Therefore, the department amends Title 18, DCMR, Chapter 24, Section 2407 TEMPORARY AND EMERGENCY RESTRICTIONS, Subsection 2407.10, to state that in residential areas, the temporary signs must be posted 72 hours in advance of the effective date and time.

Title 18 DCMR, Chapter 24 § 2407.10 are amended as follows:

ADD §2407.10 (b) Signs prohibiting or restricting parking in residential areas, whether or not the area is in the Residential Permit Parking program, shall be erected 72 hours in advance. This required advance notice may be waived in extraordinary circumstances for good cause shown.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

DOCKET NO. 06-05-PS

The Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02, 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the adoption of the following rulemaking which amends the Vehicle and Traffic Regulations (18 DCMR), Chapter 24 Temporary and Emergency Restrictions. Final action to adopt this rulemaking was taken on June 21, 2006. No comments have been received and no changes have been made to the text of the proposal as published on April 21, 2006 (53 DCR 3298). This final rulemaking will be effective when published in the D.C. Register.

Rulemaking action, pursuant to section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), is justified by the following circumstances:

The amendments address the need to regulate valet parking operations within the District of Columbia. The amendments permit valet parking operations the use and occupation of public space and regulate the use of public space.

18 DCMR, chapter 24 § 2409 is amended as follows:

RESTRICTED USE OF VALET PARKING, BUS, TAXICAB, AND SIGHTSEEING
ZONES AND STANDS

- 2409.1 The Director is authorized to have signs prohibiting parking or standing placed at bus stops, zones, and stands; taxicab stands; valet parking zones; and sightseeing stands, and is authorized to determine the dimensions of all such stands.
- 2409.2 Signs shall be erected after investigation by the District Department of Transportation with representatives of the Washington Metropolitan Area Transit Authority and area bus and taxi companies or valet parking operators.
- 2409.3 No person shall stand or park a vehicle in a valet parking zone; or other than a bus in a bus stand, or other than a taxicab in a taxicab stand, or other than a sightseeing vehicle in a sightseeing stand; Provided, that a driver of a passenger vehicle may stop momentarily in a stand or zone for the purpose of and while actually picking up or discharging passengers, as long as such stopping does not interfere with any vehicle, bus, taxicab, or sightseeing vehicle about to enter the stand or zone designated for the use of such vehicle.
- 2409.5 The prohibition against parking or standing at such stands and zones shall be effective at all times, unless the restricted periods have been otherwise designated and signs posted accordingly.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

DOCKET NUMBER 05-22-TS

The Acting Director of the Department of Transportation, pursuant to the authority in sections 3(b), and 5(3)(D) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921; Mayor's Order 2002-102 (June 12, 2002); and the Motor Vehicle Parking Regulation Amendment Act of 1999, D.C. Law 13-97, effective May 9, 2000, hereby gives notice of the intent to amend chapter 24 Title 18 "Vehicle and Traffic Regulations" related to Sightseeing Bus Stands.

The purpose of this rule is to establish a sightseeing bus stand for the exclusive use of the Old Towne Trolley which is owned and operated by Historic Tours of America. This bus stand will be 70 feet in length and will be installed in front of their headquarters on the north side of E Street, N.W. between 10th and 11th Streets. The tour bus operator will pay an annual Public Rights-of-Way Occupancy Permit fee no less than yearly established foregone parking meter revenue as established in Subsection 3304.5 of Chapter 33 of the Public Space and Safety Regulations (24 DCMR). Final rulemaking action to adopt this rulemaking was taken on June 21, 2006. No comments have been received and no changes have been made to the text of the proposal as published on April 21, 2006 at 53 DCR 3303. This final rulemaking will be effective when published in the D.C. Register.

- A. Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by deleting the following:

E Street, N.W.

From a point approximately 77 feet west of 10th Street, to a point approximately 109 feet west of 10th Street, on the north side, "Two Hour Parking, 7am-6:30pm, Monday – Friday".

- B. Title 18 DCMR, Section 4027, SIGHTSEEING LIMOUSINE AND BUS STANDS, Subsection 4027.1, (a) Northwest Section, is amended by deleting the following:

E Street, N.W.

From a point approximately 39 feet west of 10th Street to a point approximately 77 feet west of 10th Street, on the north side, "15 Minute Tour Bus Parking, 7am-6:30pm, Monday – Saturday".

- C. Title 18 DCMR, Section 4027, SIGHTSEEING LIMOUSINE AND BUS STANDS, Subsection 4027.1, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

E Street, N.W.

From a point approximately 39 feet west of 10th Street to a point approximately 109 feet west of 10th Street, on the north side, "No Parking 9am-7pm, Daily, Old Towne Trolley Only".

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

DOCKET NUMBER 05-96-TS

The Acting Director of the Department of Transportation, pursuant to the authority in sections 3, 5(3), and 6 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(3) and 50-921.05), and sections 6(a)(1), 6(a)(6) and 6(b) of the District of Columbia Traffic Act, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6) and (b)), hereby gives notice of the adoption of the following rulemaking which amends the Vehicle and Traffic Regulations (18 DCMR). Final action to adopt this rulemaking was taken on June 21, 2006. No comments have been received and no changes have been made to the text of the proposal as published on March 10, 2006 at (53 DCR1777). This final rulemaking will be effective when published in the D.C. Register

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.1, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to limited as specified:

I Street, N.W.

From a point approximately 114 feet west of 12th Street to a point approximately 143 feet west of 12th Street and from a point approximately 328 feet west of 12th Street to a point approximately 350 feet west of 12th Street, on the south side, No Parking, Loading Zone, 7 a.m.–6:30 p.m., Monday-Friday”;

From a point approximately 155 feet west of 13th Street to a point approximately 207 feet west of 13th Street and from a point approximately 391 feet west of 13th Street to a point approximately 459 feet west of the 13th Street, on the south side, “No Parking, Entrance”;

From a point approximately 198 feet west of 17th Street (west) to a point approximately 256 feet west of 17th Street (west), on the north side, “No Parking, Entrance”.

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 66 feet west of 12th Street to a point approximately 105 feet west of 12th Street, on the north side, “Two Hour Parking, 7 a.m.–6:30 p.m., Monday-Friday”;

From a point approximately 34 feet west of 12th Street to a point approximately 75 feet west of 12th Street, on the south side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday";

From a point approximately 349 feet west of 13th Street to a point approximately 457 feet west of 13th Street, on the north side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday";

From a point 24 feet west of Vermont Avenue to a point approximately 89 feet west of Vermont Avenue, on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 31 feet west of Connecticut Avenue to a point approximately 70 feet west of Connecticut Avenue and from a point approximately 108 feet west of Connecticut Avenue to a point approximately 130 feet west of Connecticut Avenue, on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 235 feet west of 17th Street (west) to a point approximately 289 feet west of 17th Street (west), on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 35 feet west of 18th Street to a point approximately 77 feet west of 18th Street, on the south side, "Two Hour Parking, 9:30 a.m.-4 p.m., Monday-Friday";

From a point approximately 30 feet west of 19th Street to a point approximately 72 feet west of 19th Street, on the south side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.5, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 53 feet west of 20th Street to a point approximately 68 feet west of 20th Street, on the south side, "Four Hour Motorcycle Parking Only, 7 a.m.-7 p.m., Monday-Friday".

Title 18 DCMR, Section 4032, CURB LOADING ZONES, Subsection 4032.1, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 86 feet west of 15th Street (west) to a point approximately 457 feet west of 15th Street (west), on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.-4:00 p.m., Monday- Friday";

From a point approximately 42 feet west of 16th Street to a point approximately 397 feet west of 16th Street, on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m. - 4:00 p.m., Monday- Friday";

From a point approximately 27 feet west of 17th Street (east) to a point approximately 66 feet west of 17th Street, (east) on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m. - 4:00 p.m., Monday- Friday".

From a point approximately 68 feet west of 17th Street (west) to a point approximately 198 feet west of 17th Street (west), from a point approximately 287 feet west of 17th Street (west), to a point approximately 320 feet west of 17th Street west and from a point approximately 413 feet west of 17th Street west to a point approximately 472 feet west of 17th street (west), on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.-4:00 p.m., Monday- Friday".

From a point approximately 167 feet west of 18th Street to a point approximately 435 feet west of 18th Street, on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.-4:00 p.m., Monday- Friday".

From a point approximately 162 feet west of 19th Street to a point approximately 331 feet west of 19th Street, on the north side, "Commercial Vehicles Only, Curb Lane Loading, 9:30 a.m.- 4:00 p.m., Monday- Friday".

Title 18 DCMR, Section 4035, "NO STOPPING" RESTRICTIONS, Subsection 4035.1, (a) Northwest Section, is amended by deleting the following from the list of locations where parking is to be limited as specified:

I Street, N.W.

From 16th Street to Connecticut Avenue, on the south side, "No Stopping, 7 a.m.-6:30 p.m., Monday-Friday".

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.13 (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 34 feet west of 12th street to a point approximately 75 feet west of 12th Street, on the south side, "No Parking, Entrance, 6:30 p.m. - Midnight, Daily".

From a point approximately 121 feet west of 20th Street to a point approximately 155 feet west of 20th Street, on the north side, "No Parking, Entrance, 6:30 p.m. – Midnight, Daily".

Title 18 DCMR, Section 4019, PARKING RESTRICTIONS, Subsection 4019.14, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 66 feet west of 12th Street to a point approximately 105 feet west of 12th Street, on the north side, "No Parking, Loading Zone, 7:00 a.m.–6:30 p.m., Monday–Friday.

From a point approximately 34 feet west of 12th Street to a point approximately 75 feet west of 12th Street, on the south side, "No Parking, Loading Zone, 7:00 am–6:30 p.m., Monday–Friday".

From a point approximately 24 feet west of Vermont Avenue to a point approximately 89 feet west of Vermont Avenue, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 364 feet west of 16th Street to a point approximately 406 feet west of 16th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday– Friday".

From a point approximately 31 feet west of Connecticut Avenue to a point approximately 70 feet west of Connecticut Avenue, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 235 feet west of 17th Street (west) to a point approximately 289 feet west of 17th Street (west), on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 35 feet west of 18th Street to a point approximately 77 feet west of 18th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday–Friday".

From a point approximately 30 feet west of 19th Street to a point approximately 72 feet west of 19th Street, on the south side, "No Parking, Loading Zone, 9:30 a.m.–4:00 p.m., Monday – Friday".

Title 18 DCMR, Section 4022, BUS STOPS, BUS ZONES AND BUS STANDS, Subsection 4022.1, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 349 feet west of 13th Street to a point approximately 457 feet west of 13th Street, on the north side, "No Standing or Parking, Metro Bus Zone".

Title 18 DCMR, Section 4023, PARKING METER ZONES, Subsection 4023.3, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

I Street, N.W.

From a point approximately 114 feet west of 12th Street to a point approximately 143 feet west of 12th Street and from a point approximately 328 feet west of 12th Street to a point approximately 350 feet west of 12th Street, on the south side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday".

From a point approximately 155 feet west of 13th Street to a point approximately 207 feet west of 13th Street and from a point approximately 391 feet west of 13th Street to a point approximately 459 feet west of 13th Street, on the south side, "Two Hour Parking, 7 a.m.-6:30 p.m., Monday-Friday".

From a point approximately 86 feet west of 15th Street (west) to a point approximately 457 feet west of 15th Street (west), on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 42 feet west of 16th Street to a point approximately 397 feet west of 16th Street, on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 38 feet west of 16th Street to a point approximately 364 feet west of 16th Street and from a point approximately 406 feet west of 16th Street to a point approximately 487 feet west of 16th Street, on the south side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 27 feet west of 17th Street (east) to a point approximately 66 feet west of 17th Street (east), on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 68 feet west of 17th Street (west) to a point approximately 472 feet west of 17th Street (west), on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

From a point approximately 167 feet west of 18th Street to a point approximately 435 feet west of 18th Street, on the north side, "Two Hour Parking, 9:30 a.m.-4:00 p.m., Monday-Friday".

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From a point approximately 162 feet west of 19th Street to a point approximately 331 feet west of 19th Street, on the north side, "Two Hour Parking, 9:30 a.m.– 4:00 p.m., Monday-Friday".

From a point approximately 53 feet west of 20th Street to a point approximately 68 feet west of 20th Street, on the south side, "Two Hour Parking, 7:00 a.m.–6:30 p.m., Monday-Friday".

Title 18 DCMR, Section 4035, "NO STOPPING" RESTRICTIONS, Subsection 4035.1, (a) Northwest Section, is amended by adding the following to the list of locations where parking is to be limited as specified:

From 16th Street to Connecticut Avenue, on the south side, "No Stopping, 7-9:30 a.m.– 4-6:30 p.m., Monday- Friday".

From a point approximately 108 feet west of Connecticut Avenue to a point approximately 130 feet west of Connecticut Avenue, on the south side, "No Stopping Anytime".

From a point approximately 264 feet west of 19th Street to a point approximately 331 feet west of 19th Street, on the north side, "No Stopping Anytime".

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia hereby gives notice of its amendment of Chapter 3 of Title 8, DCMR, Academic Procedures and Methods, to establish the policy and process for the awarding of undergraduate, graduate and law degrees posthumously. The proposed rulemaking was published for a thirty-day comment period at 53 DCR 2431 – 32 on March 31, 2006. This amendment will be effective upon publication in the D.C. Register.

Section 309, Reserved, is retitled “Posthumous Awarding of Degrees” and inserted as follows:

Section 309 Posthumous Awarding of Degrees

309.1 The University of the District of Columbia may award undergraduate and graduate, and law school degrees posthumously when appropriate criteria have been met and upon recommendation from the deceased student’s major academic department and with the approval of the appropriate Dean and of the Provost and Vice President for Academic Affairs, unfulfilled graduation requirements shall be waived. The posthumous award of a degree recognized the academic achievement of the student in accordance with the standards and conditions established herein.

309.2 Posthumous Baccalaureate and Associate Degrees will be awarded if, at the time of the student’s death:

- (a) The student was either (1) within 15 semester hours of completing the Bachelor’s Degree or within 9 semester hours of completing the Associate’s Degree or (2) was enrolled in the final semester leading to completion for the degree;
- (b) The student was making progress toward the degree with an attained cumulative grade point average of 2.00 or higher; and
- (c) The student was not involved in or suffering injuries sustained in or resulting from the student’s commission of a felony.

309.3 Posthumous Master’s Degrees will be awarded if, at the time of the student’s death:

- (a) The student was either (1) within 9 semester hours of completing all requirements for the Master’s Degree or (2) enrolled in the final semester leading to completion of the degree;
- (b) The student was making progress toward the degree with an attained cumulative grade point average of 3.00 or higher; and
- (c) If a thesis was a degree requirement, the student had completed enough research and prepared sufficient notes and outlines for a substantive thesis to be completed on schedule; and

- (d) The student was not involved in or suffering injuries sustained in or resulting from the student's commission of a felony.
- 309.4 Posthumous Juris Doctor Degrees will be awarded if at the time to of the student's death:
- (a) The student was within one semester of completing all requirements for the Juris Doctor Degree;
 - (b) The student was in good standing at the David A. Clarke School of Law; and
 - (c) The student was not involved in or suffering injuries sustained in or resulting from the student's commission of a felony.
- 309.5 Upon notification of a student's death by any reliable means, the Vice President for Student Affairs shall:
- (a) Verify the circumstances of death; and
 - (b) Notify the Registrar to duly annotate the student's academic records; and
 - (c) Notify the appropriate Department Chairperson.
- 309.6 Upon review of the student's academic record and verification that all requirements for a posthumous award are met and the approval of the department faculty, the Chairperson shall recommend to the Dean of the School or College that the student be awarded the appropriate degree posthumously at the next regularly Commencement ceremony.
- 309.7 Upon verification of the fulfillment of all requirements for the award, the Dean shall forward the recommendation to the Provost and Vice President for Academic Affairs. If the Dean finds that one or more elements for the posthumous award of a degree is missing, the Dean shall notify the Department Chair that the recommendation is rejected.
- 309.8 Upon review of the Dean's recommendation of posthumous degree award, the Provost and Vice President for Academic Affairs shall notify the Registrar to order and record the degree, with the designation "awarded posthumously" and to include the student's name in the Commencement program. The Provost and Vice President for Academic Affairs shall also notify the President of the University and the Board of Trustees of the Award. If the Provost and Vice President for Academic Affairs finds fault with the Dean's recommendation, the Dean shall be advised of its rejection and the reasons therefore.
- 309.9 Upon notification by the Provost and Vice President for Academic Affairs, the Registrar shall audit the student's record for compliance with all the requirements not only for the degree but also for posthumous award, and, if all is in order, shall record and order the posthumous degree.

309.10 The Provost will notify the Office of Student Accounts to waive any unpaid graduation fees for the student.

309.11 The posthumous award shall be announced publicly by the President and will be presented to a family member at the appropriate commencement ceremony. The name of the deceased recipient shall be read at the beginning of the respective College or School's list of names. If a family member is unable to attend the commencement ceremony, the Registrar's Office will send the diploma to the family member designated in the student's official file in the Office of the Registrar.

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia pursuant to the authority set forth under §201(a) of the District of Columbia Public Postsecondary Education Reorganization Act Amendments ("Act") effective January 2, 1976 (D.C. Law 1-36; D.C. Official Code § 38-1202.06) hereby gives notice of its amendment of Section 728 of Chapter 7 of Title 8, DCMR entitled "Tuition and Fees". The amendment further revises the comprehensive schedule of tuition and fees adopted on March 21, 2006. This further amendment was published as a proposed rulemaking at 53 DCR 4007 - 08 on May 12, 2006 for a thirty-day comment period. The proposed amendment to 728.4(a) has been deleted in response to comments received. This rule will become effective upon publication of this notice in the D.C. Register.

728 TUITION AND FEES: Degree-granting Programs

728.3

- (b) Each semester and summer of enrollment beginning Fall Semester 2007 and then again in the Fall Semester of 2008, each law school student shall pay the following mandatory fees:

	<u>Fall 2007</u>	<u>Fall 2008</u>
(3) Health Services Fee	Increase \$10 to \$25	No increase, to remain at \$25

728.4 The University shall charge the following miscellaneous fees to all students:

	<u>Fall 2007</u>	<u>Fall 2008</u>
(a) Application Fee, Graduate, including law students	Increase \$30 to \$50	Increase \$25 to \$75

UNIVERSITY OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

The Board of Trustees of the University of the District of Columbia hereby gives final notice of its repeal of Chapter 13, Leave and Benefits, of Title 8A, DCMR, the Rules of the D.C. School of Law, with the intent that employees of the successor, UDC David A. Clark School of Law, shall be governed by Chapter 13, Leave and Benefits, of Title 8, DCMR, the Rules of the University of the District of Columbia. The Notice of Proposed Rulemaking was published in the D.C. Register on March 31, 2006 at 53 DCR 2434. No comments were received.

This rule will become effective upon publication of this notice in the D.C. Register.